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DIGEST OF WATER POLLUTION CONTROL LEGISLATION ... HAWAII

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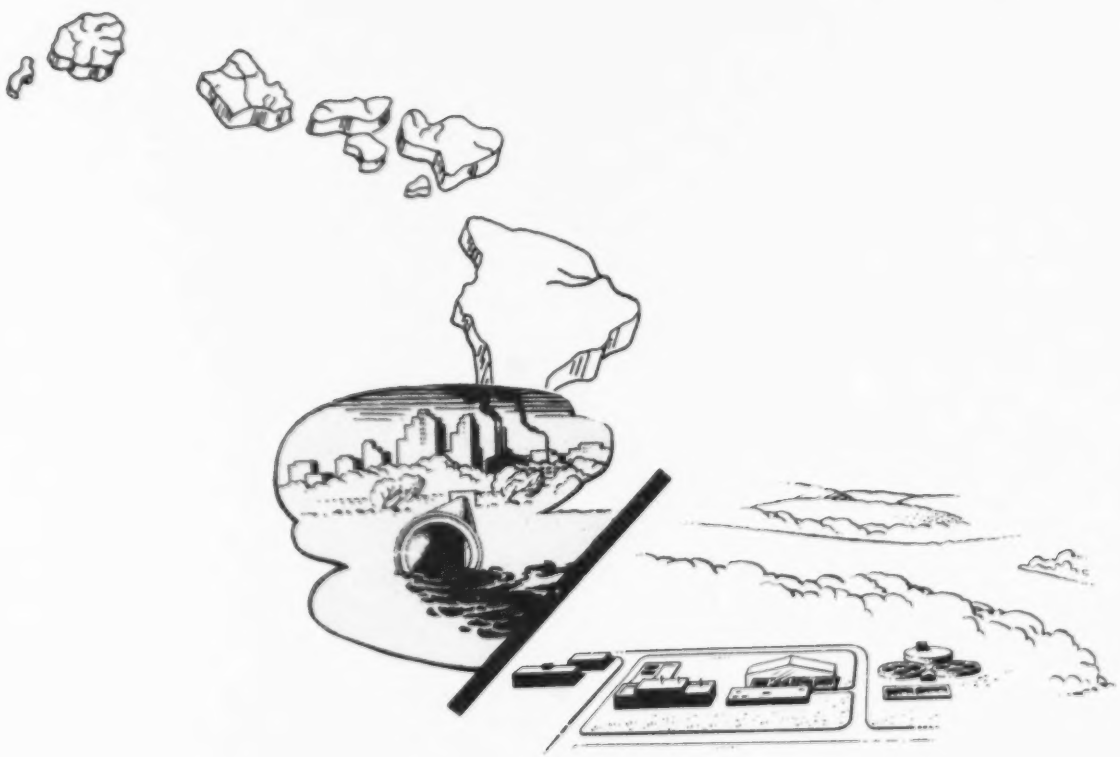

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U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Public Health Service

Section 3 of the Federal Water Pollution Control Act (33 U.S.C. 466b) directs the Public Health Service to "encourage the enactment of improved and, so far as practicable, uniform State laws relating to the prevention and control of water pollution."

This Digest is one of a series prepared by the Public Health Service as a service to the States and others interested in these objectives. Cooperation of State officials in the preparation of these digests is gratefully acknowledged.

September 1958

DIGEST OF WATER POLLUTION CONTROL LEGISLATION OF HAWAII

I. GENERAL STATEMENT

The Territorial Board of Health has the primary function for controlling water pollution.

The Board makes rules and regulations respecting nuisances, privies, cesspools, sanitation, drainage, and water courses(Sec. 46-13). [1/] The Board also has the power to regulate (to the extent their sanitary or physical condition may affect the public health, safety or welfare) all waters within the Territory, including drainage water systems, water supply systems, sewage outfall areas and plants, and the disposal of any sewage, offensive or injurious to health (Sec. 46-16).

The Board of Agriculture and Forestry [2/] through the Director of Fish and Game is authorized to enforce all laws relating to the protection of fish and fishing within the Territory (Secs. 18-12, 21-4).

The Board of Harbor Commissioners [3/] is authorized to make rules and regulations to prevent the throwing into the waters of the Territory of garbage or other substances liable to make such waters unsightly, unhealthful or unclean; to prevent the escape of fuel or other oils into such waters

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1/ Citations in this digest refer to the Revised Laws of Hawaii, 1955, unless otherwise indicated.

2/ Consists of 7 members, appointed by the Governor, one of whom is designated as President who is the Executive Officer of the Board. One member must be a resident of the County of Hawaii, one a resident of the County of Maui and one a resident of the County of Kauai. Members are appointed for 4-year terms, except as to those first appointed. The Board must hold at least one meeting each year in each of the above-three mentioned counties (Sec. 18-1).

3/ Consists of 7 members, one of whom is the Superintendent of public works, who is Chairman ex officio, and 6 members appointed by the Governor; 3 of whom are to be residents of the City and County of Honolulu, one a resident of the County of Hawaii, one a resident of the County of Maui and the other a resident of the County of Kauai. Appointive members are appointed for 4-year terms, except as to those first appointed. The Board elects one of their number to act as Secretary. The Board also appoints a Director who is the Chief Engineer and Chief Administrative Officer of the Board (Secs. 112-1, 112-2).

either from vessels, pipes, or storage tanks upon the land (Sec. 112-5). Violation of any of the Board's rules or regulations is a misdemeanor punishable by fine (Sec. 112-23).

II. ADMINISTRATIVE ORGANIZATION

Board of Health

1. Composition and organization

The Board is composed of 11 members (including the president), of whom 10 are appointive members and one is the Attorney General, who is ex-officio. At least 2 members but not more than 3 must be medical doctors, and at least one but not more than two must be dentists. At least one member must be a resident of each of the counties of Hawaii, Kauai and Maui (Sec. 46-1). Five members of the Board constitute a quorum. The President acts as the executive officer of the Board and has full power to administer and enforce all regulations and directions of the Board. The Board holds at least one regular meeting in each calendar month, and such other special meetings as are required. The Board is authorized to appoint a Secretary (Secs. 46-2, 46-3,46-4, 46-6).

2. Powers and duties

a) General

The Board has general charge of the health of the people of the Territory. It supervises all waters, drainage, water supply systems, sewage systems, and sewage or refuse disposal (Sec. 46-8,46-16).

b) Issuance of permits and review of plans and specifications

Approval in writing by the Board is necessary before anyone is permitted to establish, extend or alter any system of drainage, sewage or water supply, or to undertake any project in sewage outfall areas where there may be a possibility of alteration of oceanographical currents depended upon

for dilution. The Board may also require the submission of a complete and detailed plan, description and history of the existing works, system or plant and of any proposed addition to, modification or alteration of any such undertaking (Sec. 46-16).

A certificate from the Board that it has examined the water, source and distribution system and that it is free from contamination and pollution, must first be obtained before anyone may furnish water for potable purposes (Sec. 315-1).

c) Enforcement

The Board is authorized to abate and prevent nuisances which may cause disease or which are dangerous to health (Sec. 47-1). Persons violating any rule or regulation of the Board, after the same has been published, are guilty of a misdemeanor punishable by a fine or imprisonment or both (Sec. 46-18). All county health authorities, sheriffs, police and all other officers and employees of the Territory are empowered to enforce the rules and regulations (Sec. 46-8).

The furnishing of water for potable purposes without a certificate from the Board, or after written notice from the Board that the water is not free from contamination and is unsuitable for such purposes is punishable by a fine (Secs. 315-2, 315-3).

d) Conduct of studies, investigations and research

The Board is empowered to conduct experiments or make investigations to determine the purity and potability of water, to prevent the pollution of the water, and to effect the proper disposition of sewage, drainage and waste (Sec. 46-16).

e) Cooperation with other agencies

The Board is authorized to consult with and advise any person, firm, corporation or public body or board engaged in or intending to be engaged in any business or undertaking whose sewage or drainage may pollute water or whose operations may affect the health, safety or welfare of the public (Sec. 46-16). The Board may, except as otherwise provided by law, accept on behalf of the Territory, all grants of Federal-aid moneys (Sec. 12-4).

f) Administrative powers

The Board is authorized to make, amend or repeal rules and regulations which have the force and effect of law. The Board is required, in such event, to hold a public hearing on any proposed rule or regulation, or amendment or repeal, of a rule or regulation, and must give notice thereof in a newspaper of general circulation (one publication) not less than 4 days before the date set for the hearing (Sec. 7-29).

Upon the refusal to allow a Board member or its agent to enter any place for the abatement of a nuisance, the Board member or its agent is authorized to secure a warrant from a District Magistrate for such purpose and may enter and abate the nuisance (Sec. 47-5).

3. Exemption from operation of law

Any person, firm, public utility or other public body engaged strictly in the production and distribution of domestic water is exempt from the regulation of the Board of Health in the operation of any water system for which there is regularly employed a licensed sanitary engineer (Sec. 46-16).

4. Statement of policy

It is declared that the conservation, development and protection of the water resources of the Territory are of paramount importance to the welfare of its people. The water supply is dependent upon protected watershed areas

in that they reduce erosion and flash runoff, provide steady stream flow and permit infiltration into ground water areas. The acquisition or control of such lands for the safeguarding of the domestic water supply is a public use for which the taking of private property is necessary (Sec. 19-20).

III. MISCELLANEOUS STATUTORY PROVISIONS RELATED TO WATER POLLUTION

It is unlawful for anyone to fish by means of any chemical or substance which kills or intoxicates fish. Violation is punishable by a fine or imprisonment or both (Secs. 21-57, 21-58, 21-59).

It is unlawful for anyone to place in the waters of the Territory any explosive compound for the purpose of killing or taking fish; or to place in such waters any petroleum, coal or oil tar, lampblack, aniline, asphalt, bitumen, or residuary product of petroleum or carbonaceous material or substance in such quantities as are deleterious to fish. Violation is declared a misdemeanor subject to a fine, or imprisonment or both (Sec. 21-52).

It is unlawful to use giant powder, or any other explosive substance, or poison in taking fish. Violation carries a fine, or imprisonment or both (Secs. 21-53, 21-55).

Anyone who commits a nuisance in any stream is subject to a fine or imprisonment (Sec. 47-54).